

REMARKS

Claims 1-34 were pending in the application. Claims 16-23 and 26-34 are withdrawn from consideration. Claims 1 and 2 have been amended. No claims have been canceled or added. Thus, upon entry of this amendment, claims 1-15, 24 and 25 are subject to continued examination.

Claims 1 and 2 have been amended to more clearly define the present invention. Claim 1 calls for at least a portion of the pile yarns to be microdenier filaments and for the plush surface to be hydrophilic. Claim 2 calls for a filament linear density of not greater than 1.1 denier.

REJECTIONS:

Claims 1 - 15, 24, and 25 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-6 of U.S. patent 5,916,723 to Hepfinger in view of U.S. Patent 5,725,951 to Schuette et al.. Claims 1 - 15, 24, and 25 stand further rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent 4,712,281 to Scheller in view of Schuette et al. Claims 1 - 15, 24, and 25 stand still further rejected under 35 U.S.C. 103(a) as being obvious over Hepfinger in view of Schuette et al. Thus, all outstanding art rejections are premised upon the obviousness of using the teachings of Schuette et al. to impart a hydrophilic character to a fabric. Continued rejection on this basis is respectfully traversed and reconsideration is requested.

It is axiomatic that in order to support an obviousness rejection or obviousness type double patenting rejection, the claimed subject matter must be an obvious variation over the prior claims and/or teachings of the cited references. In the present instance, the cited combination of references does not establish a basis for a conclusion of obviousness. Thus, it is respectfully submitted that neither of the obviousness rejections nor the obviousness type double patenting rejection should be maintained.

MPEP §2143 states clearly that the mere fact that references can be combined or modified does not render the combination obvious unless the prior art also suggests the desirability of the combination. Moreover, the proposed modification must have a reasonable expectation of success and the combination of references must teach or suggest all elements of the claim. It is respectfully submitted that the outstanding rejections based on Shuette et al. fail to satisfy these standards.

In the present instance, the Office Action appears to take the position that a teaching in Shuette et al. of a lubricant and soil release finish composition applied to a yarn wherein the soil release finish contains a hydrophilic component makes obvious the ability to render any known fabric structure hydrophilic regardless of the physical character of the fabric structure. Applicants respectfully submit that this analysis ignores the multifilament microdenier character of the raised or broken pile yarns forming the hydrophilic plush surface of the present invention.

In Shuette et al., the lubricant/soil release finish composition is applied topically during processing of the yarn. Such a topical treatment does not render a multifilament yarn hydrophilic when such a yarn is subsequently raised or broken. This is particularly true in a microdenier yarn wherein multiple small filaments are trapped in the interior of the yarn bundle during the topical treatment prior to raising or breakage. Thus, if the pile yarn is treated before raising or breakage as taught by Shuette et al., the references do not suggest that a hydrophilic character can be established or maintained throughout the yarn bundle. To the contrary, throughout Shuette et al. the lubricant emulsion is described as a finish indicating that the treatment is retained at the surface.

It would also be unreasonable to apply the formulation of Shuette et al. after raising or breakage due to the fact that the oil of Shuette et al. would thereafter have to be removed from the high surface area pile.

Further, Applicants respectfully submit that the characterization in Schuette et al. of the lubricant/soil release composition as a finish would actually dissuade one of skill in the art from

attempting to use that composition to impart hydrophilic character to a multifilament microdenier yarn bundle which is to undergo raising or breakage to establish a plush pile surface. The finish of Shuette et al. would be expected to form a coating across an outer yarn surface and subsequent raising or breakage would thereafter be expected to release a large surface area of untreated fibers throughout the pile. Thus, applying the teachings of Shuette et al. would not be expected to be effective.

In view of the express teachings in Shuette et al. that the lubricant/ soil release composition acts as a finish, it is respectfully submitted that there can be no finding of the required teaching or suggestion for the combination of references, modification of references, or of the invention as claimed. At best, the rejections based on Shuette et al. appear to be supportable only on the basis of impermissible hindsight or an impermissible "obvious to try" standard using the teachings of the present application as a guide. Thus, the cited references do not appear to support a *prima facie* case of obviousness. Applicants respectfully request reconsideration and withdrawal of the rejections.

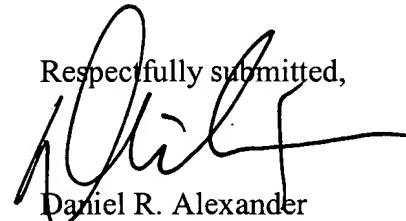
CONCLUSION:

For the reasons set forth above, it is respectfully submitted that all claims stand in condition for allowance. Prompt allowance and passage to issue is therefore requested. While Applicants have attempted to address all outstanding issues, in the event that any issue remains unresolved, the Examiner is encouraged to contact the undersigned attorney in the hope that such issue may be resolved in an expedient and satisfactory manner.

To any extent as may be necessary, a petition for extension of time is hereby made. Authorization is hereby provided to deduct any fee necessary for the acceptance of this paper from Deposit Account 04-0500.

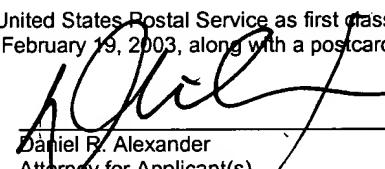
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Respectfully submitted,


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, Washington, DC 20231, on February 19, 2003, along with a postcard receipt.


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